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SUBJECT: Family Code Implementation: Are Judges Resisting the Changes?

¶1. The Casablanca Regional Bureau of the Hassanian Judges' Association organized a December 15 meeting between female parliamentarians and judges entitled "Judges and the Application of the Moudawana (family code)." The meeting was also attended by members of civil society and human rights activists. MOJ Chief of Staff Moulay Hachem Al Alaoui served as the panel's mediator. (Curiously absent was Judge Zhor al Horr, the first women president of the Casablanca family court, which handles by far the greatest number of marital conflict cases in Morocco).

¶2. President of the Hassanian Judges Association Mustapha Fares made opening remarks stressing that "this meeting is a new practice adopted by the Casablanca Regional Bureau of the Hassanian Judges Association to communicate with all components of Moroccan society, to listen to them, and most importantly to understand citizens' expectations in order to establish a just and equitable justice to be respected by all citizens."

¶3. More generally, the conference aimed at assessing the family code after almost two years of implementation and provided an opportunity to discuss remaining problems and challenges. Civil society actors viewed the main issues in the legislation as stemming from the many prerogatives left to the judge's discretion. There was reportedly open debate on whether Moroccan judges respect the Moudawana and whether there is abuse of power. Fares stressed that the importance of properly implementing the code is just as important as the changes brought by it.

¶4. French-language daily L'Economiste reported on December 16 that, "Unfortunately the panel ended with neither conclusions nor answers on the implementation of the code. There was instead too much summarizing of the code itself." L'Economiste commented that the participants at least agreed on one point: the outdated mentality which still prevails within courts hampers effective implementation of the family code. A moderate judge mentioned that "what takes place in courts reflects the current thinking which prevails within society." The Parliamentarians and judges concluded that what is needed is strong will and especially time for conservative mentalities to change.

Comment

¶5. While largely inconclusive and devoid of concrete recommendations, the conference, convened at the initiative of judges, was useful in bringing together judges, lawyers, MP's and women's rights activists to debate implementation of the family code. The meeting also points to one of the main implementation challenges of the code, which is that some -- and perhaps most -- judges are either resistant to

implementing the changes in the family code or else do not understand the changes well enough despite the training manuals prepared by the MOJ (the other challenge being dissemination of the changes to all sectors of society). In our view, MEPI and DRL-funded programs such as ABA that focus on the training of family court judges are well-positioned to make an impact in this critical area.

¶16. Comment continued: The new legislation can also only be accepted and properly practiced if those to whom it applies properly understand it. While the GOM has launched various, disparate communication campaigns to describe the legislation, people with no previous legal knowledge have difficulties understanding it as do people who don't speak modern standard Arabic, a language that is spoken on television but not understood by the illiterate, who make up almost half of the Moroccan population. As a result, women's movements are now asking the government to provide didactic material that can be understood by all segments of the Moroccan society. Several MEPI-funded activities including World Learning, Global Rights, and the Academy for Educational Development work on communicating the new law in Moroccan dialect and other local Berber dialects. A small grant given to local NGO Joussour/Aquarium Theater successfully reached thousands of illiterate Moroccans through plays performed in Moroccan dialect in primarily rural areas. The funding we have contributed to these programs has been invaluable in spreading the message, but there is clearly much more work to be done in the slow process of changing the mentality of bygone generations. The results of the judges' meeting will be a valuable teaching aid for future USG-funded activities to bolster women's rights and inclusiveness in Morocco. End comment.